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POSTAL REGULATORY  
COMMISSION  
OFFICE OF THE SECRETARY

Hon. Shoshana M. Grove, Secretary  
Postal Regulatory Commission  
901 New York Avenue NW, Suite 200  
Washington, D.C. 20268-0001

Dear Ms. Grove:

In connection with the Commission's rules pertaining to periodic reports, 39 C.F.R. § 3050 (2009), I have enclosed the following as a pdf file on computer disk:

Appendix A6: Packages & Expedited, *The Household Diary Study: Mail Uses & Attitudes in FY 2009*.

This file consists of the 10 tables (Table A6-1 through Table A6-10) that constitute an appendix (Appendix A6: Packages & Expedited) to the FY2009 Household Diary Study. In the version of the FY2009 Household Diary Study provided to the Commission on July 2, 2010, pursuant to the above periodic reporting rule, a statement was included regarding Appendix A6 that the materials had been redacted. Since these tables relate primarily to the Postal Service's competitive products, as well as to similar products offered by competing package delivery providers, the Postal Service is now providing this information under seal. In general, the Postal Service maintains its position that materials relating to Competitive categories of mail are internal documents of a commercially sensitive nature that under good business practices should not be disclosed publicly, and thus would be exempt from public disclosure pursuant to 5 U.S.C. § 552(b)(3) and 39 U.S.C. § 410(c)(2). Accordingly, the Postal Service requests that the Commission withhold all of the Appendix A6 materials from public disclosure. 39 U.S.C. § 504(g).

If you have any questions or concerns, please contact me. As in the past, the Postal Service expects that any FOIA request for the records and information provided at this time will entail consultation between the Postal Service and the Commission, before any records are made publicly available. This approach accords with Department of Justice guidance and with our understanding of the Commission's current policy regarding such requests, which were described in a letter from R. Andrew German to your predecessor dated March 15, 2002. With respect to Appendix A6, I have enclosed as an attachment to this letter the "Application of the United States

Postal Service for Non-Public Treatment of Materials." Pursuant to 39 C.F.R. § 3007.21, this document describes the material provided on the non-public computer disk and copies, and presents the statutory basis for the Postal Service's request for confidentiality, as well as a description of the harm that would result from disclosure.

If you have any questions concerning this report, please contact us.

Sincerely,

A handwritten signature in cursive script, reading "Daniel J. Foucheaux, Jr.", written in dark ink.

Daniel J. Foucheaux, Jr.  
Chief Counsel, Pricing and Product  
Support

Enclosures

cc: Ms. Taylor

## Attachment

### APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,<sup>1</sup> the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials consist of Appendix A6 to the FY2009 Household Diary Study, relating to Packages and Expedited Mail. This material is provided as a pdf file on a CD-ROM.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).<sup>2</sup> Because the portions of the materials that the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the

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1 PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

2 In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

The Postal Service is unaware of any third-party with a known proprietary interest in the material provided under seal in this instance.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

The material in question consists of 10 tables containing information obtained from Household Diary respondents regarding Packages and Expedited pieces sent and received by households. The Postal Service has determined that, consistent with distinctions established in the Postal Accountability and Enhancement Act (PAEA) between market dominant and competitive products, it would not accord with good business practice to release such information. Persons wishing to understand the nature of the contents of this nonpublic material, however, may examine prior versions of Appendix A6, and evaluate accordingly. For example, with the exception of the years for which information is provided, the format of the current version of Appendix A6 does not differ from the format appearing as "Appendix A6 Tables pdf", which can be found under the FY2007 Household Diary Study listing appearing within the Daily Listings for July 28, 2009.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it could suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use recent data, and data collected over a period of years, to analyze the Postal Service's possible market strengths and weaknesses and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. More broadly, interested parties could gain, at no effort or expense to themselves, valuable analytic information about the package delivery markets, and their own place within those markets, and structure their strategic behavior accordingly. The Postal Service considers these to be outcomes that could result from public disclosure of the material filed non-publicly.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Harm: Competitors could use data to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: Year after year, Appendix A6 material is released to the public. Another delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor assesses the historic trends along dimensions, such as, for example, contents of packages. The competitor then targets its advertising and sales efforts at actual or potential customers

in market segments where the Postal Service appears to be making headway, hindering the Postal Service's ability to reach out effectively to these customers.

Harm: Competitors obtain valuable marketing information without having to pay for it.

Hypothetical: Appendix A6 material is released to the public. A competitor that was preparing to conduct its own market research at its own expense instead simply uses the material provided in the appendix. The competitor saves the costs of such research, and can thus compete more effectively against the Postal Service. As a result, the Postal Service achieves less volume and revenue growth than it might have otherwise.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the non-public materials.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service believes that the ten-year period

of non-public treatment is sufficient to protect its interests with regard to the information it determined should be withheld due to commercial sensitivity.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.